

IV. Paging And Narrowband PCS Licensees Should Be Provided Significant Flexibility In The Use Of Mobile Spectrum

In the *Further Notice*, the Commission noted that AirTouch had requested significant flexibility in the use of mobile spectrum with other messaging services. PageNet submits that narrowband PCS and paging licensees should have sufficient flexibility to use portions of their spectrum for purposes of registration to support dramatically more efficient use of other CMRS spectrum they may hold, as explained below.

PageNet and others carriers have begun to utilize mobile unit registration technology that allows the network to know which transmitter is the closest to the mobile unit when a message is to be delivered. The benefit of this technology is significantly increased network efficiency. Instead of having to transmit a message over a dozen to many hundred transmitters (simulcast) to send a message to a particular mobile unit, once a mobile unit is registered, the only transmitter that need activate to deliver a message is the one closest to the mobile unit. A system that is able to utilize mobile spectrum in this way can serve several times the number of subscribers that non-registration systems serve.

PageNet anticipates that through this technology it will be able to use portions of its mobile spectrum from its nationwide narrowband PCS licenses and its 900 MHz SMR licenses for registration purposes for mobile units that are served by its 929 MHz and 931 MHz spectrum. Thus, this technology should dramatically increase the capacity of all of its networks. As such, because mobile spectrum will have application for services

offered on base spectrum that is not currently associated for mobile spectrum, PageNet requests that the Commission clarify that its flexible use policy with respect to CMRS spectrum include uses such as registration described herein and the use of mobile spectrum from one authorization to help coordinate base station spectrum from another authorization.

V. Eligibility For Response Channels Should Be Limited To Existing 929 And 931 Carriers For Mobile To Base Transmission

The *Further Notice* proposes to eliminate eligibility criteria for the 12.5 kHz response channels, so that they could be utilized by "all qualified applicants, and for purposes other than mobile-to-base transmissions, provided the licensee complies with the Commission's power and the transmission rules." PageNet disagrees at this time.

These response channels are critical to the ability of existing 929 and 931 MHz, and perhaps narrowband carriers to deploy some of the most spectrally efficient technologies, or to offer two-way services, however defined. These efficiencies, and the breadth of service they foster, are the means by which these carriers can compete most efficiently with broadband PCS. As the Commission notes here, in the *Further Notice* (§ 46), "as wireless competition evolves, narrowband PCS is likely to face significant competition not only from other narrowband PCS providers, including paging and 220 MHz licensees, but also broadband CMRS providers who have the ability to use a portion of their spectrum to offer 'narrowband' services such as messaging and paging." In the Commission's paradigm for competition, paging carriers and broadband carriers compete in the provision of messaging

services. PageNet agrees. But they could compete more efficiently if the paging carriers were able, over response channels, to offer the same services and/or efficiencies which the broadband carriers can achieve through the use of two-way channels. Thus, the paging and narrowband carriers and their subscribers are substantially benefitted by maintaining eligibility for response channels to carriers whose messaging services, whether paging or narrowband PCS, channels overlap the response channels.

Admittedly, the fact that the Commission opens the eligibility does not assure that "new entrants" will win any of the channels at auction. But it is undeniable that any opportunity to diminish the amount of spectrum available to existing licensees of traditional paging services and narrowband PCS licensees, thereby reduces their own opportunity to upgrade their systems.

However, PageNet is concerned about raising the peak output power as proposed. As a member of PCIA's Technical Committee, which has been asked to examine the appropriateness of a seven watt peak output power, PageNet will provide additional comments to the Commission on this issue in the reply phase of this proceeding.

VI. The Proposed Auction Rules Should Be Modified To Assure That All Legitimate Auction Participants Can Participate On A Fair, Reasonable And Non-Discriminatory Basis

The Commission's *Further Notice* proposes to rely substantially on the auction methodology for narrowband PCS but, nonetheless, seeks comments on the extent to which modifications should be made. PageNet believes that the rules do need

modification to assure that speculations do not overrun these auctions, and that all participants have equal rights and information in the auctions. To that end, PageNet proposes that up-front payments be based on the total aggregate up-front payments of all the licenses on which the applicant may bid, which should be separately identified; that all applicants must have all of the relevant information about each bidder, including the identities of each bidder; and that no bidding credits or installment payments be permitted.

First, PageNet notes that it is only through the payment of a specific, reasonable amount of money for each license on which the applicant intends to bid that the Commission is able to determine the bona fides of any applicant. In the absence of such bona fides, speculators will be able to file for and participate in these auctions to the detriment of carriers who intent to offer service over these frequencies.

Moreover, if, as PageNet demonstrates is reasonable, the Commission determines that MTAs are the appropriate size of the remaining licenses to be auctioned, auction participants certainly cannot be heard to complain, as the amounts necessary to be deposited as earnest money would have to be readily available to them in any event if they are successful.

Second, the Commission should continue to require, and continue to make available to all bidders, all of the information currently required by the Commission's rules, including the identity of bidders. A decision not to disclose the identity of all the bidders would run contrary to all of the Commission's auction precedents, save one on which numerous petitions for

reconsideration are pending. The Commission should stick to its established auction procedures, which recognize that the advantage of disclosing bidder information, including the identities of the bidders, outweigh the disadvantages of attempting to maintain confidentiality.

Lastly, bidding credits and installment payments make no sense here. There is no evidence that small businesses are unable to raise the limited amount of capital necessary, in particular, for licenses smaller than nationwide licenses. In this circumstance, clearly the Commission cannot establish bidding credits and installment payment which would have the affect of treating carriers of different, but not decisionally dispositive, financial condition discriminatorily. Although the Commission recognizes the statutory encouragement to assure small business participation through bidding credits and installment payments, there is certainly no statutory obligation to provide them where they clearly are not needed in order to assure participation in the auctions.^{18/}

^{18/} Moreover, any doubt about the financial ability of licensees to participate, without bidding credits or installment payments, is one more compelling reason to limit license size to MTAs, where the facts clearly demonstrate that small businesses participate in all of the Commission's MTA authorized services.

Conclusion

For the foregoing reasons, PageNet urges the Commission to stay the course established for narrowband PCS in its earlier decisions. Specifically, the Commission should continue to reserve one MHz of narrowband PCS spectrum to accommodate future growth and development of the services. In addition, the Commission should not adopt a "substantial service" test as an alternative to the existing construction requirements, should license the remainder of the initial two MHz of narrowband PCS spectrum on an MTA basis, should promote flexible use of spectrum by paging and narrowband PCS licensees, and should adopt an auction design consistent with the one outlined by PageNet herein.

Respectfully submitted,

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